

ORDINANCE NO. 88-24

AN ORDINANCE GRANTING A GAS FRANCHISE
TO CENTRAL ILLINOIS LIGHT COMPANY

WHEREAS, Central Illinois Light Company, an Illinois Corporation ("Grantee"), is now the owner of and in possession of a gas distribution system in the Village of Chatham ("Village"), Sangamon County, State of Illinois, under a franchise made October 16, 1956, running for 30 years thereafter until October 15, 1986;

WHEREAS, the Grantee has applied to the President and Board of Trustees of the Village for a franchise under which to continue the operation of Grantee's gas distribution system; and

WHEREAS, UNDER appropriate terms and provisions, it is deemed proper to grant to the Grantee a franchise to construct, operate and maintain a gas distribution system in and adjacent to the Village to supply natural gas for public and private use, and to grant to Grantee for these purposes the right to use and occupy the streets, avenues, alleys, and public sidewalks, within the control of the Village and within the present and future corporate limits thereof.

THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHATHAM, COUNTY OF SANGAMON, STATE OF ILLINOIS:

SECTION I: That the right, privilege, and authority be and the same is hereby granted to the Grantee, a corporation organized and existing under the laws of the State of Illinois, its successors and assigns, for the term hereinafter specified to construct, maintain, and operate within the Village a system or systems and connection with other plants or systems to furnish, sell, distribute, deliver, and dispose of gas for light, heat, power, and for any other purposes for which such gas may prove to be adaptable to the Village and the residents and others in and adjacent to said Village and to the public generally and to that end there is hereby granted to the Grantee, its successors and assigns, the right to enter into and upon and use streets, avenues, and alleys to construct, lay, establish, erect, maintain, and operate underground pipes, regulator pits, and all necessary appliances or devices that may provide adaptable for containing, carrying, distributing, and operating gas through, in, along, under, and across the streets, avenues, lanes, and alleys within the present as well as the future corporate limits to the Village for the purpose of furnishing light, heat, and power to said Village and to the residents and others in said Village and the surrounding and other territory and to the public generally, with the right and privilege to re-enter from time to time for the making of such additions, extensions, connections, repairs, renewals, and

alterations as may be necessary for the proper maintenance and operation of said system or systems and provided always that such powers are exercised subject to all restrictions in this Ordinance contained. It is expressly understood and agreed that the power and authority hereby granted shall not authorize or permit said Grantee, its successors and assigns, at any time to enter upon, molest or interfere with any private property, or to mutilate, remove or destroy any tree, shrub or bush, on private property without express authority from the owner thereof.

SECTION II: The rates to be charged for the supplying of gas for light, heat, power or other purposes as herein contemplated shall be such as may be established from time to time by the Illinois Commerce Commission. In the event that the Illinois Commerce Commission is abolished, the rates shall be such as the law may thereupon or thereafter provide.

SECTION III: The Grantee, in constructing, extending, or operating said system or systems shall not, at any time, unreasonably obstruct any street, alley, or public place in the Village, and whenever in constructing, extending, maintaining, or operating said system or systems it shall in any way use or obstruct any street, alley, or public place, it shall, as soon as practicable, restore the same to its first and former condition, and shall at all times save, hold, and keep the Village harmless from and indemnify it against any and all claims, demands, damages, costs, causes of action and reasonable attorney's fees that may result from or arise out of act or omission of the Grantee herein or any of its employees in the construction, operation, extension, or maintenance of said system or systems.

SECTION IV: The Grantee is aware of and acknowledges that the Village owns, maintains and operates utility facilities including a public water supply, system, sanitary sewer system, and electric transmission and distribution systems, each of which have underground lines, wires, cables, pipes and conduits along, across and beneath the same streets, avenues and alleys as Grantee is given the right to use by this Franchise Agreement. Grantee agrees to inform the Village Superintendent of Streets or such other persons or officials as designated by the Village, before commencing any construction or relocation of gas lines or other underground facilities upon, across or beneath the Village streets, avenues and alleys and to obtain the approval of the Superintendent of Streets or the Village Engineer for the relocation or initial installation of Grantee's pipelines and other facilities within the public ways. The Village agrees to cooperate in coordinating and accommodating such work and use by the Grantee, but the Grantee acknowledges that the Village can not relinquish its predominate right and responsibility to use and maintain those public ways for the Village's own public purposes.

SECTION V: Grantee agrees that it shall furnish to the Village complete and up-to-date maps showing the size and location of all mains laid in public streets, alleys and ways, within thirty (30) days of the effective date of this Franchise Agreement, and within thirty (30) days of each annual anniversary date thereafter during the term of this Franchise Agreement.

SECTION VI: The Grantee may at any time make and enforce as a part of the conditions upon which it will furnish gas for light, heat, power or for any other purposes for which said service may prove to be adapted in the Village, such lawful rules and regulations as are not inconsistent with the terms and provisions of this Ordinance. The Village expressly reserves all of its police power to adopt general ordinances necessary to protect the safety and welfare of the general public in relation to the rights hereby granted not inconsistent with the provisions of this Ordinance and the laws of this State.

SECTION VII: The Grantee shall operate said system in conformity with the regulations, requirements, and specifications of the Illinois Commerce Commission as the same may be hereafter amended or modified, and shall comply with all the lawful regulations and orders of said Illinois Commerce Commission or any successor of said Commission that may be vested by law with the regulation of utilities, pertaining to gas service in said Village.

SECTION VIII: All regulators and relief valves hereafter installed by Grantee within the corporate limits of the Village or in areas annexed into the corporate limits of the Village during the term of this Franchise Agreement, shall be constructed and installed in a securely covered pit, below grade. Prior to June 1, 1989 the Grantee shall modify Grantee's existing regulator stations at those three locations commonly know as Walnut and Ball Streets, Willow Glen Estates, and Glenwood Park Subdivision. The Village officials, in exercise of their fundamental obligation to protect the public health and safety of the residents of the Village, have determined that each of those existing facilities, which are near heavily traveled intersections, constitute obstructions to the view of motorists in turning lanes, and otherwise constitute a potential public hazard in the event they should be struck by a motor vehicle.

SECTION IX: The annual gas franchise payment shall be an amount equal to one percent (1%) of Grantee's gross annual income received from Grantee's Customers within the corporate limits of the Village. The annual gas franchise payment shall be paid in one installment on or before February 1 of each year for the preceding calendar year. Notwithstanding the foregoing terms for determining the annual gas franchise payment, the formula for determining said annual gas franchise payment may be opened for discussion and revision each ten (10) years during the term of this franchise, upon ninety (90) days written notice by either party. The Village or its authorized agents shall

have the right to inspect, with reasonable advance notice, during Grantee's normal business hours, Grantee's books and records pertaining to all revenues received by Grantee from customers within the corporate limits of the Village of Chatham.

SECTION X: As part of the consideration for the granting of this franchise, Grantee shall make gas service available to all persons within the corporate limits of the Village as it now exists or as exists at any time during the term of this Franchise Agreement, in accordance with all of the applicable rates, terms and conditions as established from time to time by the Illinois Commerce Commission.

SECTION XI: If, at any time, the Village shall, by ordinance or otherwise, impose any occupation tax, license, inspection fee, rental or occupation charge, or any other charge or imposition against the grantee on account of the use by it of any space in any street, alley, or public place for its mains, services, regulators, or other appliances in connection with the gas distribution system, then and in such event the rates for gas service to the Village and individual customers shall be proportionately increased by an amount equal to the sum total of any such tax, license, inspection fee, rental or occupation charge, or any other charge or imposition made against the Grantee and by it paid in any year; the sum total of such tax, license, inspection fee, rental or occupation charge, or any other charge or imposition to be divided by the total sales of gas hereunder in any year in determining such increase in rate. If and when such occupation tax, license, inspection fee, rental or occupation charge, or any other charge or imposition is levied, Grantee shall file with the Illinois Commerce Commission its proposed increase in rate or rates.

SECTION XII: As long as the Grantee exercises the rights granted to it and faithfully performs the obligations assigned to it hereunder and as long as the Village shall receive the considerations therefore as recited herein, the Village will not, by ordinance or otherwise, vacate any street, alley, or public way in which the Grantee has its structures installed without reserving the easement rights of the Grantee in and to the street, alley, or public way to be vacated.

SECTION XIII: This Franchise Ordinance shall become a contract or Franchise Agreement between the Village and the Grantee binding upon each and their respective successors and assigns upon the happening of all of the following:

(a) Passage and Approval of this Ordinance by the President and Board of Trustees of the Village of Chatham;

(b) The acceptance and approval of the terms of this Franchise Ordinance by the Grantee by its duly authorized officers;

(c) Payment by the Grantee to the Village of the sum of \$27,400.00.

SECTION XIV: This franchise shall be and remain in full force and effect from and after its passage for a period of fifty (50) years thereafter, provided it is accepted by the Grantee in writing as provided in Section XIII above, and the Grantee performs its obligations and undertakings as provided herein.

SECTION XV: All other ordinance or parts of ordinances inconsistent with the provisions hereof are hereby repealed as of the effective date of this Ordinance. Invalidity of any part of this Ordinance shall not invalidate the whole, but each provision thereof shall be considered severable and any provision or portion thereof which shall not be found to be invalid shall remain in full force and effect.

PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHATHAM, SANGAMON COUNTY, ILLINOIS, THIS 27 DAY OF September, 1988.

AYE: _____

NAY: _____

Village of Chatham, County
of Sangamon, State of Illinois

R.E. Moore
Village of Chatham, Illinois

Attest:

Barbara Beckley
Village Clerk, Village
of Chatham

CENTRAL ILLINOIS LIGHT COMPANY, an Illinois corporation, pursuant to authority of its Board of Directors, by and through its authorized officers, hereby accepts all of the terms and conditions of the foregoing Ordinance passed and approved by the Village of Chatham in Sangamon County, Illinois identified as Ordinance No. 88-_____, and captioned "An Ordinance Granting a Gas Franchise to Central Illinois Light Company".

CENTRAL ILLINOIS LIGHT
COMPANY

Vice President

ATTEST:

Assistant Secretary

STATE OF ILLINOIS)
)SS.
COUNTY OF PEORIA)

I, _____, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY THAT _____ and _____, personally known to me to be the Vice President and Assistant Secretary, respectively, of CENTRAL ILLINOIS LIGHT COMPANY, whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Vice President and Assistant Secretary they signed, sealed, and delivered the foregoing instrument as their free and voluntary act and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth, pursuant to the authority of its Board of Directors.

GIVEN under my hand and Notarial Seal this ____ day of _____, A.D. 1988.

Charles H. Northrup
Philip E. Hanna
Thomas L. Cochran
Patrick V. Reilly
William S. Hanley
R. Gerald Borris
Stephen A. Tagge
Michael A. Myers
C. Clark Germann
T. Kent Cochran
Gary A. Brown
Stephen R. Kaufmann
Mary Jane Lynk
Frederick B. Hoffmann

Craig S. Burkhardt
Michael C. Connelly
Alan R. Post
John A. Kauerauf
Scott C. Helmholtz
David A. Rolf

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(1944-1959)
John H. Hardin
(1945-1978)
George W. Cullen
(1950-1986)

Fax No. 1-217-522-3173

September 27, 1988

Donald E. Moore, President
and Trustees
Village of Chatham
117 E. Mulberry
Chatham, IL 62629

Re: CILCO Gas Franchise

Mrs. Bearss, Gentlemen:

Attached is a proposed Ordinance entitled "An Ordinance Granting a Gas Franchise to Central Illinois Light Company". As those of you on the Committee know there has been an extended period of negotiations and I have attempted to draft this Ordinance to fully protect the Village, incorporating a number of modifications to CILCO's "standard form", and drafting other new provisions, including a very simple formula for fixing the annual franchise fee - 1% of CILCO's gross revenue from all customers within the Village limits.

You will see that I have also expressly provided that the Ordinance would become effective as a Franchise Agreement upon its acceptance in writing by CILCO, and payment of the \$27,400.00 sum negotiated for recognizing that CILCO has operated in the Village for about two years since the 1956 franchise expired in October 1986.

Please review this carefully because once passed and presented to CILCO it will be difficult to make revisions.

Very truly yours,


C. Clark Germann

CCG/krw

Enclosure

CCG.KRW.092788.6431.A.1.